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# U.S.-Vietnam Relations in 2009: Current Issues and Implications for U.S. Policy

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## Summary

After communist North Vietnam's victory over U.S.-backed South Vietnam in 1975, U.S.-Vietnam relations remained essentially frozen until the mid-1990s. Since then, bilateral ties have expanded to the point where the relationship has been virtually normalized. Indeed, since 2002, overlapping strategic and economic interests have compelled the United States and Vietnam to improve relations across a wide spectrum of issues. Congress played a significant role in the normalization process and continues to influence the state of bilateral relations.

In the United States, voices favoring improved relations have included those reflecting U.S. business interests in Vietnam's reforming economy and U.S. strategic interests in expanding cooperation with a populous country—Vietnam has over 85 million people—that has an ambivalent relationship with China. Others argue that improvements in bilateral relations should be conditioned upon Vietnam's authoritarian government improving its record on human rights. The population of over 1 million Vietnamese-Americans, as well as legacies of the Vietnam War, also drive continued U.S. interest.

Vietnamese leaders have sought to upgrade relations with the United States in part due to the desire for continued access to the U.S. market and to worries about China's expanding influence in Southeast Asia. That said, Sino-Vietnam relations are Vietnam's most important bilateral relationship and Vietnamese leaders must tiptoe carefully along the tightrope between Washington and Beijing, such that improved relations with one capital not be perceived as a threat to the other. Also, some Vietnamese remain suspicious that the United States' long-term goal is to end the Vietnamese Communist Party's (VCP) monopoly on power through a "peaceful evolution" strategy.

Economic ties are the most mature aspect of the U.S.-Vietnam bilateral relationship. The United States is Vietnam's largest export market. Bilateral trade surpassed \$14 billion in 2008 and has been growing by double-digits every year since the United States extended "normal trade relations" (NTR) treatment to Vietnam in 2001. Increased bilateral trade also has been fostered by Vietnam's market-oriented reforms and the resulting growth in its foreign-invested and privately owned sectors. From 1987-2007, Vietnam's annual gross domestic product (GDP) growth averaged over 7%. Since late 2007, Vietnam's economy has been buffeted by economic difficulties that have lowered growth rates and increased social strife. Vietnam is one of the largest recipients of U.S. assistance in East Asia; estimated U.S. aid in FY2008 surpassed \$100 million, much of it for health-related activities. In 2008, the two countries launched bilateral investment treaty (BIT) talks and the Bush Administration announced that it would explore whether to add Vietnam to the Generalized System of Preferences (GSP) program, which extends duty-free treatment to certain products that are imported from designated developing countries.

For years, human rights have been the biggest thorn in the side of the relationship. Vietnam is a one-party, authoritarian state ruled by the VCP, which appears to be following a strategy of permitting most forms of personal and religious expression while selectively repressing individuals and organizations that it deems a threat to the party's monopoly on power. Since early 2007, a number of arrests of dissidents and other developments have led some to conclude that Vietnam's human rights situation is worsening.

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## Recent Developments<sup>1</sup>

**Sino-Vietnamese Relations.** In December 2008, Vietnam and China announced they had completed the demarcation of their land border. (For more, see “Sino-Vietnam Relations” below.)

**Catfish.** In January 2009, the U.S. International Trade Commission announced it would conduct a review to determine whether revoking the punitive tariffs against some Vietnamese exporters of frozen catfish would likely cause “material injury” to U.S. competitors. The tariffs have been imposed since 2003, when a number of Vietnamese companies were ruled to have dumped their products on the U.S. market. Vietnamese concerns had already been heightened by fears that the implementation of certain provisions of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246), passed in June 2008, may reduce catfish exports to the United States. The fish industry is an important sector in Vietnam, and for many years, Vietnamese officials and fish farmers complained about perceived discrimination against Vietnamese fish exports to the United States. (For more, see “Trade Friction” below.)

## Introduction

Since 2002, overlapping strategic and economic interests have led the United States and Vietnam to improve relations across a wide spectrum of issues.

### U.S. Interests and Goals in the Bilateral Relationship

Currently, factors generating U.S. interest in the relationship include growing trade and investment flows, the large ethnic Vietnamese community in the United States, the legacy of the Vietnam War, increasing interaction through multilateral institutions (including the United Nations Security Council), and shared concern over the rising strength of China. U.S. goals with respect to Vietnam include developing more amicable relations, bringing the country more into the mainstream of nations, opening markets for U.S. trade and investment, furthering human rights and democracy within the country, countering China’s increasing regional influence, and maintaining U.S. influence in Southeast Asia. The array of policy instruments the United States employs in relations with Vietnam includes trade incentives, foreign assistance, cooperation in international organizations, diplomatic pressures, educational outreach, and security cooperation.

### Vietnam’s Interests and Goals in the Bilateral Relationship

For Vietnam’s part, since the mid-1980s, Hanoi essentially has pursued a three-pronged national strategy: (1) prioritize economic development through market-oriented reforms; (2) pursue good relations with Southeast Asian neighbors that provide Vietnam with economic partners and diplomatic friends; and (3) repair and deepen its relationship with China, while simultaneously buttressing this by improving relations with the United States as a counterweight to Chinese

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<sup>1</sup> For more details about U.S.-Vietnam relations in 2008, see CRS Report RL33316, *U.S.-Vietnam Relations in 2008: Background and Issues for Congress*, by Mark E. Manyin.

ambition.<sup>2</sup> By virtue of its economic importance and great power status, the United States has loomed large not only in Vietnam's strategic calculations, but also in domestic developments. For instance, Vietnam's protracted decision from 1999-2001 to sign and ratify the landmark bilateral trade agreement (BTA) with the United States helped to break the logjam that had effectively paralyzed debate over the future direction and scope of economic reforms. Additionally, notwithstanding the legacy of the Vietnam War era, the Vietnamese public appears to hold overwhelmingly positive views of the United States.<sup>3</sup>

There are a number of strategic and tactical reasons behind Vietnam's efforts to upgrade its relationship with the United States. Some speculate that Vietnamese policymakers seek to counter Chinese ambitions in Southeast Asia. Vietnam also needs a favorable international economic environment—for which it sees U.S. support as critical—to enable the country's economy to continue to expand.

## A Ceiling on the Relationship?

Ultimately, the pace and extent of the improvement in bilateral relations likely is limited by several factors, including Hanoi's concerns about upsetting Beijing, U.S. scrutiny of Vietnam's human rights record, Vietnamese conservatives' wariness of working with the United States, and conservative Vietnamese suspicions that the United States' long-term goal is to end the Vietnamese Communist Party's (VCP) monopoly on power through a "peaceful evolution" strategy.

Additionally, the momentum in U.S.-Vietnam relations during the Bush years was facilitated by two external conditions that may change in the coming months. First, the relatively positive relations between the United States and China under the Bush Administration provided Vietnam with the space to expand ties with both powers. Second, the growing U.S. economy during this time also helped; securing access to the U.S. market – Vietnam's largest – was critical to Vietnamese policymakers. Many Vietnamese officials and economists see a 7% annual increase in the country's gross domestic product (GDP) as critical to providing the jobs that help maintain economic and social stability, as well as propelling Vietnam toward the government's goal of becoming a middle-income economy by 2020. As Vietnam has dropped its adherence to communist orthodoxy, providing jobs and improving standards of living have become more important to the VCP's and the government's legitimacy.

If this analysis is correct, the 2008-2009 global economic crisis could negatively affect U.S.-Vietnam relations in at least three ways: (1) it could raise trade frictions with Vietnam if the United States and/or Vietnam adopt trade-restricting measures; (2) it could reduce the United States' importance to Vietnam if U.S. imports from Vietnam decline; and (3) it could cause overall Sino-U.S. relations to deteriorate if trade tensions between the two increase. Thus, in 2009, it may take more concerted leadership in both Washington and Hanoi to continue expanding relations at the strategic level.

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<sup>2</sup> Marvin Ott, "The Future of US-Vietnam Relations," Paper presented at The Future of Relations Between Vietnam and the United States, SAIS, Washington, DC, October 2-3, 2003.

<sup>3</sup> State Department Office of Research, *Vietnam: U.S. Image Gets a Boost*, Opinion Analysis, Washington, DC, September 9, 2008.

## **Key Issues and Decisions**

Throughout the process of normalizing relations with Vietnam, Congress has played a significant role. Not only has Congress provided oversight and guidance, but it has shaped the interaction by imposing constraints, providing relevant funding, and through its approval process for agreements.

This report provides an overview of U.S. relations with Vietnam, including policy issues, the economic and political situation in Vietnam, and a list of pertinent legislation. Key issues confronting the United States include:

- whether to continue the Bush Administration's policy of pursuing high-level contacts with Vietnam, including annual summits;
- how far to pursue strategic and military-to-military ties;
- whether to impose curbs on surges in imports of certain items from Vietnam (particularly clothing);
- whether to admit Vietnam into the Generalized System of Payments program, which extends duty-free treatment to certain products that are imported from designated developing countries;
- how much and what types of bilateral economic assistance to provide;
- whether and how to try to improve the human rights situation in Vietnam; and
- how to clear up "legacy issues" from the Vietnam War, particularly the suffering of Vietnamese who say they are victims of dioxin, a byproduct of the defoliant Agent Orange that the United States used during the war.

## **Brief History of the Normalization of U.S.-Vietnam Relations**

The United States' post-World War II military involvement in Vietnam began in the early 1960s, with the dispatch of military advisers to assist the South Vietnamese government in its battles with communist North Vietnam and indigenous (i.e. South Vietnamese) communist forces. Thereafter, the U.S. presence escalated. By the time the Nixon Administration withdrew U.S. forces in 1973, millions of U.S. troops had served in Vietnam, with over 50,000 killed.

U.S.-Vietnam diplomatic and economic relations were virtually nonexistent for more than 15 years following communist North Vietnam's victory in 1975 over South Vietnam. The United States maintained a trade embargo and suspended foreign assistance to unified Vietnam. Obstacles to improved relations included U.S. demands that Vietnam withdraw from Cambodia (which Vietnam invaded in 1978), U.S. insistence on the return of/information about U.S. Prisoners of War/Missing in Action (POW/MIAs), and Vietnamese demands that the United States provide several billion dollars in postwar reconstruction aid, which they claimed had been promised by the Nixon Administration.

A series of actions by Vietnam in 1978 in particular had a long-term negative effect on U.S.-Vietnamese relations. Vietnam expelled hundreds of thousands of its citizens (many of Chinese

origin) who then became refugees throughout Southeast Asia; aligned itself economically and militarily with the Soviet Union; and invaded Cambodia, installing a puppet government backed by 200,000 Vietnamese troops. China conducted a one-month military incursion along Vietnam's northern border in 1979, which led to nearly three decades of disputes over the land border, and kept strong military pressure on Vietnam until 1990. U.S. policy toward Vietnam was also influenced by the exodus of hundreds of thousands of Vietnamese "boat people," including many ethnic Chinese, who fled Vietnam's harsh reunification program.

Developments in the mid- and late 1980s set the stage for the rapid normalization of ties in the following decade. Inside Vietnam, disastrous economic conditions and virtual diplomatic isolation led the Vietnamese Communist Party (VCP) to adopt (at its 6th National Party Congress in 1986) a more pragmatic, less ideological, line. Hanoi adopted market-oriented economic reforms (dubbed *doi moi*, or "renovation"), loosened many domestic political controls, and began to seek ways to extract itself from Cambodia.

U.S.-Vietnam cooperation on the POW/MIA issue began to improve following a 1987 visit to Vietnam by General John Vessey, President Reagan's Special Emissary for POW-MIA Issues. As Vietnam withdrew forces from Cambodia in 1989 and sought a compromise peace settlement there, the George W. Bush Administration decided to improve relations with Hanoi, which was also interested in restoring ties to the United States. In April 1991, the United States laid out a detailed "road map" for normalization with Vietnam. Later that year, Vietnam allowed the United States to open an office in Hanoi to handle POW/MIA affairs.

In 1993, President Clinton built on the thaw by signaling the end of U.S. opposition to Vietnam receiving international financial assistance. In February 1994, President Clinton announced the end of the U.S. trade embargo on Vietnam. Two months later, Congress passed the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236) that expressed the Senate's support for the normalization of relations with Vietnam. Despite congressional efforts to tie normalization to the POW/MIA issue as well as to Vietnam's human rights record, President Clinton continued to advance U.S. relations with Vietnam by appointing the first post-war ambassador to Vietnam in 1997 and signing the landmark U.S.-Vietnam bilateral trade agreement (BTA) in 2000. Throughout this period, the normalization process was greased by Vietnam's strategic desire to improve relations with the United States, continued improvements in POW/MIA cooperation, Vietnam's ongoing reform efforts, and by Vietnam's general cooperation on refugee issues.

President Clinton visited Vietnam from November 16-20, 2000, the first trip by a U.S. President since Richard Nixon went to Saigon (now Ho Chi Minh City) in 1969. The visit was notable for the unexpected enthusiasm expressed by ordinary Vietnamese, who thronged by the thousands to greet or catch a glimpse of the President and the First Lady. These spontaneous outbursts, combined with the President's public and private remarks about human rights and democratization, triggered rhetorical responses from conservative Vietnamese leaders. During the visit, Vietnamese leaders pressed the U.S. for compensation for Agent Orange victims, for assistance locating the remains of Vietnam's soldiers still missing, and for an increase in the United States' bilateral economic assistance program.

Progress towards the resumption of normal bilateral relations continued under the George W. Bush Administration. Despite growing concerns about the Vietnamese government's human rights record, Congress ratified the U.S.-Vietnam BTA in October 2001; the new agreement went into effect on December 10, 2001. Under the BTA, the United States granted Vietnam *conditional*

normal trade relations (NTR), a move that significantly reduced U.S. tariffs on most imports from Vietnam.<sup>4</sup> In return, Hanoi agreed to undertake a wide range of market-liberalization measures. Vietnam's conditional NTR status was renewed every year until December 2006, when Congress passed P.L. 109-432, a comprehensive trade and tax bill, that granted Vietnam permanent NTR status as part of a wider agreement that saw Vietnam become a member of the World Trade Organization (WTO) as of January 11, 2007.<sup>5</sup>

As discussed in the following section, during the Bush Administration, the United States and Vietnam dramatically upgraded diplomatic and strategic aspects of their relationship to the point where the two countries have all-but-normalized bilateral relations, at least from the U.S. point of view. As discussed below, however, many Vietnamese still consider relations to not be completely normalized until the United States provides more compensation for purported victims of "Agent Orange" and/or drops its legal categorization of Vietnam as a "Vietnam's "Non-Market Economy" Status".

## **Major Issues in U.S.-Vietnam Relations**

### **Diplomatic Ties**

At some point in the mid-2000s, leaders in both Hanoi and Washington, DC, sought new ways to upgrade the bilateral relationship. One manifestation of this goal was four annual summits from 2005-08. The Bush Administration appeared to use these top-level meetings to encourage economic and political reforms inside Vietnam. The 2005 and 2008 summits were particularly noteworthy.

#### **June 2005 Summit**

Then-Vietnamese Prime Minister Phan Van Khai's June 2005 trip to the United States was a landmark in the improvement of relations between the two countries. Not only was the trip the first such visit to the United States by a Vietnamese Prime Minister since the end of the Vietnam War, but combined with President Bush's November 2006 visit to Vietnam it also focused the attention of the leaders in Washington and Hanoi upon how they could improve the overall relationship. While Khai was in Washington, he and President Bush issued a joint statement expressing their "intention to bring bilateral relations to a higher plane." The two countries signed an agreement on implementing a bilateral International Military Education Training (IMET) program to send two Vietnamese officers to the United States for English language training. The two sides also announced an agreement to resume U.S. adoptions of Vietnamese children, which Hanoi had halted in 2002. Protesters, mainly Vietnamese-Americans, appeared at every stop on Khai's trip.

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<sup>4</sup> Vietnam's NTR status was conditional because it was subject to annual Presidential and congressional review under the U.S. Trade Act of 1974's Jackson-Vanik provisions, which govern trade with non-market economies. Every year between 1998 and 2006, Vietnam received a presidential waiver from the restrictions of the Jackson-Vanik provisions. From 1998 to 2002, congressional resolutions disapproving the waivers failed in the House. Disapproval resolutions were not introduced between 2003 and 2006, the last year of Vietnam's conditional NTR status.

<sup>5</sup> See CRS Report RL33490, *Vietnam PNTR Status and WTO Accession: Issues and Implications for the United States*, by Mark E. Manyin, William H. Cooper, and Bernard A. Gelb

## June 2008 Summit

The latest summit occurred between President Bush and Prime Minister Nguyen Tan Dung (pronounced “Dzung”) in Washington, DC, in June 2008. Dung’s trip was notable for the number and range of agreements the two governments reached, as well as new steps they took to deepen their level of engagement. Major developments included: the announcement of formal “political-military talks,” a process that the United States has with four other Southeast Asian countries; the launch of bilateral investment treaty (BIT) negotiations; the Bush Administration’s announcement that it would begin the process of exploring whether to add Vietnam to the Generalized System of Payments (GSP) program; the launch of a “high-level” bilateral Education Task Force; an agreement in principle to introduce a Peace Corps program in Vietnam; and the announcement of new initiatives on adoptions, nuclear safety, aviation, climate change, food safety, and other issues. Dung also became the highest level Vietnamese official since the Vietnam War to visit the Pentagon, where he met with Secretary of Defense Robert Gates.

## Economic Ties

Economic ties are the most mature aspect of the bilateral relationship. In the past five years, the United States has emerged as Vietnam’s largest export market and collectively U.S. firms have become one of the country’s largest sources of foreign direct investment (FDI). U.S. companies’ cumulative FDI still lags behind many European and Asian competitors, which had a head start in operating in Vietnam. Since 2002, Vietnam has run an overall current account deficit – one that has grown rapidly – with the rest of the world.

Bilateral trade has soared since the early part of the decade. As shown in **Table 1**, trade flows exceeded \$10 billion in 2007, nearly ten times the level in 2001, the year before Vietnam received conditional NTR status. Increased bilateral trade also has been fostered by Vietnam’s market-oriented reforms and the resulting growth in its foreign-invested and privately owned sectors. Over 80% of the increase in trade since 2001 has come from the growth in imports from Vietnam, particularly clothing items. For the first eleven months of 2008, trade flows were over \$14 billion, a 26% year-on-year increase over 2007 levels.

**Table 1. U.S.-Vietnam Merchandise Trade, Selected Years**  
(millions of dollars)

	U.S. Imports from Vietnam	U.S. Exports to Vietnam	Total Trade		Trade Balance
			Volume	Change from prior yr.	
1994 (trade embargo ended)	50.5	172.2	222.7	—	121.7
2001	1,026.4	393.8	1,420.2	23%	-632.6
2002 (NTR extended) <sup>a</sup>	2,391.7	551.9	2,943.6	107%	-1,839.8
2005	6,522.3	1,151.3	7,673.6	22%	-5,371.0
2006	8,463.4	988.4	9,451.8	23%	-7,475.0
2007 (PNTR extended) <sup>a</sup>	10,541.2	1,823.3	12,364.5	31%	-8,717.9

	U.S. Imports from Vietnam	U.S. Exports to Vietnam	Total Trade		Trade Balance
			Volume	Change from prior yr.	
Jan-Nov 2007	9,627.2	1,587.2	11,214.4	—	-8,040.0
Jan-Nov 2008	11,571.8	2,525.9	14,097.7	26%	-9,045.9
Major Imports from Vietnam	clothing, wooden furniture, footwear, fish and prepared fish products, petroleum products, electrical machinery, coffee, cashew nuts				
Major Exports to Vietnam	passenger cars, machinery and mechanical equipment, meat, cotton, plastics, iron and steel, electrical machinery				

**Source:** U.S. International Trade Commission. Data are for merchandise trade on a customs basis.

- a. Normal trade relations (NTR) status was extended to Vietnam in December 2001, when the U.S.-Vietnam bilateral trade agreement went into effect. Thus, 2002 was the first full year in which Vietnam benefitted from NTR status. Likewise, 2007 was the first full year Vietnam received permanent normal trade relations (PNTR) status, which was extended to Vietnam in December 2006.

## Trade Initiatives: GSP, TIFA, BIT, and TPP

Obtaining GSP status from the United States has become a major objective for Vietnam. The week before Prime Minister Dung's June 2008 visit to Washington, the Bush Administration announced it would begin a review of whether Vietnam meets the eligibility criteria for designation as a beneficiary country under the GSP program. The primary purpose of the program, which the United States and other industrial countries initiated in the 1970s, is to promote economic growth and development in developing countries by stimulating their exports.<sup>6</sup> In the 110<sup>th</sup> Congress, S. 3678, the Senate version of the Vietnam Human Rights Act, would have prohibited Vietnam's entry into the GSP program unless Vietnam's labor rights regime were certified as making improvements in certain areas, particularly the right of association.

In March 2008, United States and Vietnamese trade officials held their second meeting under the bilateral Trade and Investment Framework Agreement (TIFA) that was signed in June 2007. At the first TIFA meeting, in December 2007, the two sides reportedly discussed Vietnam's compliance with its WTO commitments in distribution and other service sectors, as well as other issues. The U.S. urged Vietnam to improve enforcement of intellectual property protection, a perennial point of friction.<sup>7</sup> TIFAs are often viewed as a stepping stone toward an eventual free trade agreement (FTA).

As mentioned earlier, during their June 2008 meeting, President Bush and Prime Minister Dung announced the launch of talks to establish a bilateral investment treaty (BIT). BITs are designed to improve the climate for foreign investors—typically by committing the signatories to prohibit discrimination against foreign investors—by establishing dispute settlement procedures and by protecting foreign investors from performance requirements, restrictions on transferring funds, and arbitrary expropriation. The United States has signed over 30 BITs, primarily with countries undergoing significant economic reforms.

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<sup>6</sup>For more, see CRS Report RL34702, *Potential Trade Effects of Adding Vietnam to the Generalized System of Preferences Program*, by Michael F. Martin and Vivian C. Jones.

<sup>7</sup> United States Trade Representative, "United States and Vietnam Hold First Meeting Under Trade and Investment Framework Agreement," December 17, 2007.

Vietnam reportedly is studying whether to join the Trans-Pacific Strategic Economic Partnership Agreement (TPP), a multilateral free trade agreement among Singapore, Chile, New Zealand, and Brunei.<sup>8</sup> In September 2008, the Bush Administration entered into negotiations with the TPP countries. It is unclear whether the Obama Administration will pursue the TPP. The United States already has FTAs with Singapore and Chile. If both the United States and Vietnam ultimately seek to join the TPP, it would mean that the two countries would enter into an FTA with one another.

## Trade Friction

As bilateral economic relations have expanded, so have trade disputes. Significant areas of friction include: clothing trade, fish (particularly catfish), the United States' designation of Vietnam as a "non-market economy" (NME), Vietnam's record on protecting intellectual rights, and concerns over Vietnam's currency policies. Vietnamese officials are particularly concerned about the first three issues. In general, while bilateral trade disputes have been irritants, as of early 2009 they have not spilled over to affect the course or tone of bilateral relations.

### *Imports of Vietnamese Clothing and the U.S. Import Monitoring Program<sup>9</sup>*

Much of the increase in U.S.-Vietnam trade since 2001 has come from a sharp rise in clothing imports from Vietnam, which were about \$4.3 billion in 2007, up from the \$45 million-\$50 million range that Vietnam recorded in 2000 and 2001.<sup>10</sup> By dollar value, clothing is the largest item the United States imports from Vietnam. In 2007, Vietnam was the third largest exporter of clothing to the United States, providing nearly 6% of total U.S. clothing imports (up from about 1.4% in 2002 and 0.1% in 2001, before the BTA went into effect). Clothing and textile products are Vietnam's second-largest export item by value (after crude oil), generating around \$9.1 billion in 2008.<sup>11</sup>

Many Vietnamese are concerned about reports that the United States will renew its "import monitoring program" for certain clothing and textiles from Vietnam that allows the Commerce Department to self-initiate antidumping investigations when warranted. The current program is scheduled to expire on January 20, 2009. There have been congressional calls to renew the program.<sup>12</sup>

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<sup>8</sup> "Baucus Links Vietnam Worker Rights To GSP, Seeks Beef Access," *Inside US Trade*, December 26, 2008. For more on the TPP, see CRS Report RL33463, *Trade Negotiations During the 110<sup>th</sup> Congress*, by Ian F. Ferguson.

<sup>9</sup> For more, see CRS Report RL34262, *U.S. Clothing Imports from Vietnam: Trade Policies and Performance*, by Michael F. Martin.

<sup>10</sup> For purposes of this report, clothing imports include all products imported under chapters 61 and 62 of the Harmonized Tariff System.

<sup>11</sup> "Socio-economic Statistical Data, 2008," General Statistics Office of Vietnam Press Release, January 5, 2009.

<sup>12</sup> For instance, the House Appropriations Committee in its report (H.Rept. 110-919) accompanying the Commerce, Justice, Science, And Related Agencies Appropriations Bill, 2009, said that the Committee "expects" the Commerce Department to continue monitoring Vietnamese and Chinese apparel exports to determine whether their industries are illegally pricing products and dumping in the U.S. market.

### ***Catfish***

Catfish exports account for about one-quarter of the exports by Vietnam's aquatic industry, an important sector in Vietnam. In 2007, Vietnamese fish farmers exported approximately 21,200 MT of catfish (worth about \$67.6 million) to the United States, up from 14,800 MT (\$35.3 million) in 2005.<sup>13</sup>

Vietnamese officials are concerned that the implementation of certain provisions of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246), passed in June 2008, may reduce catfish exports to the United States. Among other measures, the law will effectively transfer catfish inspection from the Food and Drug Administration to the U.S. Department of Agriculture (USDA), which currently is drafting regulations to implement the provision. These regulations conceivably could require a formal USDA determination that Vietnamese safety standards are equivalent to U.S. standards before such catfish could be imported into the United States, which might disrupt shipments. Vietnamese have complained that this and other changes the United States has made in its catfish regulation have been designed to discriminate against Vietnamese catfish imports.

Since 2003, when the U.S. Commerce Department and International Trade Commission ruled that Vietnamese companies were dumping their products on the U.S. market, the United States has imposed punitive tariffs ranging from 37% and 64% on frozen catfish fillets from many Vietnamese exporters. In January 2009, the U.S. International Trade Commission announced it would conduct a review to determine whether revoking the punitive tariffs would likely cause "material injury" to U.S. competitors.

### ***Vietnam's "Non-Market Economy" Status***

Under the terms of its entry into the WTO, Vietnam will retain its designation as a "nonmarket economy" (NME) until 2019, making it procedurally easier in many cases for U.S. companies to initiate and succeed in bringing anti-dumping cases against Vietnamese exports. Vietnamese officials would like the United States to recognize Vietnam as a market economy.

### ***Intellectual Property Rights***

From 2002-2008, the Bush Administration placed Vietnam on its "Special 301 watch list" for poor protection of intellectual property rights (IPR), particularly in the areas of music recordings and trademark protection.<sup>14</sup> The BTA required Vietnam to make its IPR regime WTO-consistent in 2003, and as part of its efforts to accede to the WTO, Vietnam passed a new IPR law in late

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<sup>13</sup> Nguyen Thi Huong and Tran Quoc Quan, *Vietnam Fishery Products Annual Report 2008*, USDA Foreign Agricultural Service Global Agriculture Information Network (GAIN) Report VM8045, June 30, 2008; "US Farm Bill May Block Tra, Basa Catfish Imports," *Thai News Service*, November 4, 2008.

<sup>14</sup> "Special 301" refers to Section 182 of the Trade Act of 1974. Since the start of the Special 301 provision in 1989, the USTR has issued annually a three-tier list of countries judged to have inadequate regimes for IPR protection, or to deny access: (1) priority foreign countries are deemed to be the worst violators, and are subject to special investigations and possible trade sanctions; (2) priority watch list countries are considered to have major deficiencies in their IPR regime, but do not currently warrant a Section 301 investigation; and (3) watch list countries, which maintain IPR practices that are of particular concern, but do not yet warrant higher-level designations. See CRS Report 98-454, *Section 301 of The Trade Act of 1974, As Amended: Its Operation and Issues Involving its Use by the United States*, by Wayne M. Morrison.

2005. Despite this and other legal and regulatory changes, the Vietnamese government's IPR enforcement has been widely faulted. The International Intellectual Property Alliance (IIPA), a private sector coalition, has estimated that trade losses due to piracy amounted to nearly \$100 million in 2007, primarily due to rampant piracy of business software.<sup>15</sup>

### ***Currency Concerns***

Some in the United States have complained about Vietnam's currency policies, under which the Vietnamese *dong* does not float freely against the U.S. dollar and other currencies. Instead, the State Bank of Vietnam maintains a "managed float" via a daily trading band limiting the fluctuation of the *dong* to plus or minus 3%, a spread that is up from the 0.1% that was maintained in 2001. Vietnam's central bank widened the spread three times in 2008. The *dong* depreciated by around 9% against the U.S. dollar in 2008, and many analysts expect it to depreciate further in the months ahead.

## **U.S. Foreign Assistance to Vietnam**

As the normalization process has proceeded, the U.S. has eliminated most of the Cold War-era restrictions on aid to Vietnam, and U.S. assistance has increased markedly from the provision of about \$1 million when assistance was resumed in 1991. Estimated U.S. aid in FY2008 was around \$120 million, about six times the level in FY2000, making Vietnam one of the largest recipients of U.S. aid in East Asia. For FY2009, the Bush Administration requested approximately \$110 million.

The U.S. bilateral aid program is dominated by health-related assistance, which is projected to have totaled more than \$100 million in FY2008. In particular, spending on HIV/AIDS treatment and prevention in Vietnam has risen since President Bush designated Vietnam as a "focus country" eligible to receive increased funding to combat HIV/AIDS in June 2004 under the President's Emergency Plan for AIDS Relief (PEPFAR).<sup>16</sup> Some Vietnamese, as well as some Western aid providers, have questioned the wisdom of allocating these sums of money for Vietnam, which does not appear to have a severe HIV/AIDS problem. Other sizeable U.S. assistance items include programs assisting Vietnam's economic reform efforts and governance, programs to combat trafficking in persons, and de-mining programs. In 2007, \$3 million was appropriated for cleaning up dioxin storage sites. (See the "Agent Orange" section.) In recent years, some Members of Congress have attempted to link increases in non-humanitarian aid to progress in Vietnam's human rights record. (See the "Human Rights Issues" section.)

In May 2004, Vietnam was not selected as one of the first 16 countries eligible for the Millennium Challenge Account (MCA), President Bush's foreign aid initiative that links U.S. assistance to governance as well as economic and political freedoms. After 2004, Vietnam consistently was deemed ineligible for the MCA despite meeting the technical requirements because it scored very low on some of the indicators used to measure political freedom.

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<sup>15</sup> International Intellectual Property Alliance, *2008 Special 301 Report Vietnam*.

<sup>16</sup> Vietnam qualified for the designation in part because of its demonstrated commitment to fighting the epidemic on its own and because of the competency of its medical institutions. Vietnam is estimated to have about 100,000 people living with the HIV/AIDS virus, a number that is projected to grow significantly.

## ***Education Exchanges***

The governments of the United States and Vietnam run a number of educational exchange programs. These generally total around \$10 million a year, a sum not included in the above estimates of U.S. assistance. Bilateral educational exchanges are expected to increase once the Education Task Force launched by President Bush and Prime Minister Dung in 2008 begins to have an effect.

## **Human Rights Issues**

### **Overview**

It is difficult to make country-wide generalizations about the state of human rights in Vietnam, a one-party, authoritarian state ruled by the VCP. For over a decade, the VCP appears to have followed a strategy of permitting most forms of personal and religious expression while selectively repressing individuals and organizations that it deems a threat to the party's monopoly on power. On the one hand, the gradual loosening of restrictions since Vietnam's *doi moi* ("renovation") economic reforms were launched in 1986 has opened the door for Vietnamese to engage in private enterprise, has permitted most Vietnamese to observe the religion of their choice, and has allowed a moderately vibrant press to sprout, so long as it keeps criticism of the government to "safe" issues like corruption, economic policy, nature conservation, and environmental pollution. Since 2004, according to several reports, there have been indications that human rights conditions have improved for most Vietnamese, including those in the Central Highlands and Northwest Highlands regions, two regions whose heavy minority populations have made them particular centers of human rights concerns.

On the other hand, the government cracks down harshly on anti-government activity, as shown by the wave of arrests of political dissidents in the winter and spring of 2007 (see text box below). Many contend that since early 2007 Vietnamese authorities have adopted a harsher policy of cracking down upon signs of dissent more quickly and more aggressively than they had for much of the mid-2000s. Since early 2008, press freedoms reportedly also have been curtailed and prominent journalists arrested. Various ethnic minority groups, most prominently the minorities known as Montagnards who live in the country's Central Highlands region, also report cases of discrimination and repression, though abuses in the Central Highlands appear to have fallen since the last major anti-government protests in 2004.<sup>17</sup> (For the location of the Central Highlands region, see **Figure 1** at the end of this report.) Furthermore, in its effort to control the Internet, the central government has tightened restrictions on blogs and has stepped up repression of so-called "cyber dissidents" for alleged offenses such as criticizing the signing of land-border agreements with China and calling for greater political accountability and political competition. In January

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<sup>17</sup> "Montagnard" is a French term meaning "mountain people" that is often used to refer to the various indigenous ethnic minorities in Vietnam's central and northern mountain areas. According to Human Rights Watch, there are approximately one million Montagnards in the Central Highlands, comprised of approximately six ethnic groups. Since the end of the Vietnam War, millions of ethnic Kinh (Vietnam's dominant ethnic group) from Vietnam's lowlands have migrated into the Central Highlands. Coffee and rubber plantations also have sprouted in the region. The ensuing land pressures have resulted the loss of ancestral homeland by many Montagnards. Hundreds of thousands of Central Highlands Montagnards are thought to follow evangelical Protestantism. For more, see Human Rights Watch, *Repression Of Montagnards, Conflicts over Land and Religion in Vietnam's Central Highlands*, April 2002.

2009, it was reported that the Ministry of Communication planned to ask Google and Yahoo to regulate the content of Vietnamese blogs and websites.<sup>18</sup>

In sum, many analysts recognize positive changes in Vietnam's human rights situation and in Vietnamese government officials' willingness to discuss human rights issues. However, given continued reports of repression and harassment, and expectations that deteriorating economic conditions will lead to increased social unrest, there is considerable disagreement about how significant and how pervasive the improvements are, not to mention how lasting they will be.

### **A Wave of Arrests of Vietnamese Dissidents**

In 2006, a number of dissident groups appeared and publicly called for peaceful democratic change, including two new groups called the People's Democracy Party of Vietnam (PDPV) and the 8406 Bloc. The government responded by arresting many participants, with estimates of the number ranging from dozens to hundreds. The arrests, which appear to have peaked between March and April 2007, may have been part of a strategy to decapitate the dissident organizations, some of which have connections to Vietnamese Americans. It is unclear how much support these groups have within the broader population or to what extent the groups reflect and influence ongoing debates that are believed to be taking place within the VCP. According to some human rights organizations, as of September 2008, dissidents linked to the 2006 groups continue to be arrested and/or harassed.

In the spring of 2007, the White House and the State Department criticized the arrests, most notably President Bush and Vice President Cheney's 45-minute meeting in late May 2007 with a group of Vietnamese-American human rights activists. Many Members of Congress also spoke out, including through the House's passage (by a vote of 404-0) of H.Res. 243, calling on Hanoi to release political prisoners. To protest the arrests, Congressman Earl Blumenauer resigned his position as chairman of the U.S.-Vietnam Congressional Caucus in May 2007.<sup>19</sup>

## **Religious Freedom**

According to a variety of reports, most Vietnamese now are able to observe the religion of their choice. However, while the freedom to worship generally exists in Vietnam, the government strictly regulates and monitors the activities of religious organizations. Periodically, authorities have increased restrictions on certain groups. Although the constitution provides for freedom of religion, Vietnamese law requires religious groups to join one of the officially-recognized religious organizations or denominations. According to many reports, the government uses this process to monitor and restrict religious organizations' operations. Additionally, many groups either refuse to join one of the official religious orders or are denied permission to do so, meaning that these groups' activities technically are illegal.

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<sup>18</sup> Human Rights Watch, "Vietnam: Stop Muzzling the Messengers," January 8, 2009.

<sup>19</sup> "Blumenauer quits the US - Vietnam Caucus," *OregonLive.com*, May 27, 2007.

In 2004, the State Department designated Vietnam as a “country of particular concern” (CPC), principally because of reports of worsening harassment of certain ethnic minority Protestants and Buddhists. When the Vietnamese responded by negotiating with the Bush Administration and adopting internal changes, the two sides reached an agreement on religious freedom, in which Hanoi agreed to take steps to improve conditions for people of faith, particularly in the Central Highlands. The May 2005 agreement enabled Vietnam to avoid punitive consequences, such as sanctions, associated with its CPC designation. The agreement was faulted by human rights groups on a number of grounds, including the charge that religious persecution continues in the Central Highlands. Vietnam was redesignated a CPC in the 2005 and 2006 Religious Freedom Reports.

In November 2006, the State Department announced that because of “many positive steps” taken by the Vietnamese government since 2004, the country was no longer a “severe violator of religious freedom” and had been removed from the CPC list. The announcement, which came two days before President Bush was due to depart to Hanoi for the APEC summit, cited a dramatic decline in forced renunciations of faith, the release of religious prisoners, an expansion of freedom to organize by many religious groups, and the issuance of new laws and regulations, and stepped up enforcement mechanisms. Over the course of 2006, as part of the bilateral U.S.-Vietnam human rights dialogue, Vietnam released a number of prominent dissidents the Bush Administration had identified as “prisoners of concern.” Vietnam also reportedly told the United States that it would repeal its administrative decree allowing detention without trial. The U.S. Committee on International Religious Freedom, among others, has disputed the Administration’s factual basis for the decision to remove Vietnam from the CPC list, arguing that abuses continue and that lifting the CPC label removes an incentive for Vietnam to make further improvements.

## The Vietnam Human Rights Act

Since the 107<sup>th</sup> Congress, when Members of Congress became concerned with Vietnamese government crackdowns against protestors in the Central Highlands region, various legislative attempts have been made to link U.S. assistance to the human rights situation in Vietnam. A number of measures entitled “The Vietnam Human Rights Act” have been introduced, with most proposing to cap existing non-humanitarian U.S. assistance programs to the Vietnamese government at existing levels if the President does not certify that Vietnam is making “substantial progress” in human rights.<sup>20</sup> Most versions of the act, including the two most recent (H.R. 3096 and S. 3678 in the 110th Congress), would have granted the President a national interest waiver that allows him to exempt any programs that are deemed to promote the goals of the act and/or to be in the national interests of the United States. For a comparison of H.R. 3096 and S. 3678, see **Appendix A** below.

Proponents of the Vietnam Human Rights Act argue that additional pressure should be placed on the Vietnamese government to improve its human rights record. Critics have argued that the bill

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<sup>20</sup> The Vietnam Human Rights Act was first introduced in the 107<sup>th</sup> Congress as H.R. 2833, which was passed by the House, 410-1 (roll call 335) on September 6, 2001 and did not receive action in the Senate. In the 108<sup>th</sup> Congress, H.R. 1587/S. 2784 were introduced. House passed H.R. 1587 by a vote of 323-45 (roll call 391). In the Senate, the bill was not reported out of committee, and attempts to include an abbreviated version in an omnibus appropriation bill did not succeed. In the 109<sup>th</sup> Congress, another stripped-down version of the act (H.R. 3190) was included in the House-passed version of the Foreign Relations Authorization Act of FY2006/FY2007 (H.R. 2601), which did not receive action in the Senate.

could chill the recent warming of bilateral political and security ties and could weaken economic reformers in ongoing domestic battles inside Vietnam.

### **Refugees in Cambodia**

Since 2001, hundreds of Montagnards have crossed into Cambodia, to escape continuing unrest in the Central Highlands region. In 2002, Cambodia accepted an offer from the United States to resettle the more than 900 Montagnards who remained following the 2001 protests and crackdown. More than 700 Montagnards have fled to Cambodia since then, particularly after a wave of unrest in April 2004. The United Nations High Commissioner for Refugees (UNHCR) has found the majority of the border-crossers to be political refugees and therefore entitled to asylum. While most of these are being resettled in the United States, Canada, or Finland, others have returned to Vietnam following a January 2005 agreement between UNHCR, Cambodia, and Vietnam in which Hanoi agreed that those returning to Vietnam would not be punished, discriminated against, or prosecuted for fleeing to Cambodia. Vietnam also agreed to drop its refusal to allow UNHCR to monitor the returnees' well-being, though some human rights groups have criticized UNHCR's monitoring visits, as well as its process for screening border crossers in Cambodia. More than 200 individuals, including many who have been recognized as refugees by UNHCR, refused offers to be resettled in third countries outside Southeast Asia. In the past, Cambodia has been accused of abiding by Vietnamese requests to close its borders and repatriate individuals forcibly.

In May 2007, the United States adopted a new policy toward the Montagnards in Cambodia, in which individuals UNHCR deems not to be refugees will not be considered for resettlement in the United States. The move appeared to indicate the United States' official acceptance that Vietnam was honoring its commitments in the January 2005 tripartite agreement. In the year following the policy shift, the United States accepted approximately 100 Montagnards for resettlement.

The Senate Appropriations Committee's report accompanying H.R. 2764, the FY2008 Department of State, Foreign Operations, and Related Programs Appropriations Act, requested the Secretary of State to submit a report on the estimated number of Montagnards who are refugees in Cambodia. The language was not included in the final legislation that was included in the omnibus Consolidated Appropriations Act, 2008 (H.R. 2764), which President Bush signed into law on December 26, 2007.

### **Human Trafficking**

In June 2008, the State Department issued its eighth annual report on human trafficking, *Trafficking in Persons Report*. Vietnam was listed as a "Tier 2" country that "does not fully comply with the minimum standards for the elimination of trafficking." As recently as 2004, it was included on the "Tier 2 Watch-list," but was upgraded to "Tier 2" in the 2005 report. The 2008 report judged the government to be making "significant efforts" to combat trafficking, including establishing partnerships with Cambodia, China, Laos, and Thailand. However, the report criticized the Vietnamese government for lax investigation of complaints of the exploitation of Vietnamese workers in officially sanctioned export labor programs.

## Security Issues

Vietnam and the United States gradually have been expanding their political and security ties, though these have lagged far behind the economic aspect of the relationship. Most dramatically, in 2005 the two countries signed an IMET agreement, which reportedly had been blocked for years by the Vietnamese military. In June 2006, then-Secretary of Defense Donald Rumsfeld visited Vietnam and agreed with Defense Minister Pham Van Tra to increase military-to-military cooperation and exchanges.<sup>21</sup> U.S. naval vessels regularly call on Vietnamese ports, and Vietnamese military officers increasingly participate in U.S.-led conferences and academic programs. Joint counter-narcotics training programs also have been established.

In April 2007, the United States modified International Traffic in Arms Regulations (ITAR) regarding Vietnam by allowing licenses for trade in certain non-lethal defense items and services to Vietnam. Such transactions are reviewed on a case-by-case basis. In October 2008, the United States and Vietnam held their first Security Dialogue on Political, Security, and Defense Issues. At the Hanoi meeting, the Vietnamese military reportedly asked the United States to supply spare parts for its American-made Huey helicopters that are leftovers from the Vietnam War. The two governments also discussed integrating Vietnamese soldiers into United Nations peacekeeping operations, and American military help with disaster relief in Vietnam.<sup>22</sup> The Bush Administration's FY2009 budget request included a request for \$500,000 in foreign military financing (FMF) for Vietnam, the first time Hanoi would be included in this program.

## Vietnam War "Legacy" Issues

### Agent Orange<sup>23</sup>

Vietnamese leaders have pressed the United States for assistance in cleaning up the dioxin left from the spraying of Agent Orange during the Vietnam War, as well as providing medical care for the estimated 3-5 million Vietnamese dioxin "victims." Among the Vietnamese public, Agent Orange has perhaps become the biggest problem facing the two countries.<sup>24</sup> The issue was discussed by Bush and Dung during their June 2008 summit, as well as during the May 2008 human rights dialogue. Although the United States has resisted providing medical assistance to the alleged Vietnamese "victims" of Agent Orange, since the middle of the decade it has indicated a willingness to help with the containment and removal of the residual dioxin, especially in identified "hot spots" near former U.S. military bases.

According to the State Department, U.S. assistance to victims of land mines over the years has included \$2 million in funding for Agent Orange related projects. The Iraq Accountability Appropriations Act of 2007 (H.R. 2206/P.L. 110-28), signed into law by President Bush in May 2007, appropriated \$3 million for assistance to Vietnam for environmental remediation of dioxin

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<sup>21</sup> Office of the Assistant Secretary of Defense (Public Affairs), "Press Availability with Secretary Rumsfeld in Vietnam," June 5, 2006.

<sup>22</sup> "US, Vietnam Hold First Political-Military Dialogue," *Voice of America*, October 7, 2008.

<sup>23</sup> For more on the Agent Orange issue, see CRS Report RL34761, *Vietnamese Victims of Agent Orange and U.S.-Vietnam Relations*, by Michael F. Martin.

<sup>24</sup> State Department Office of Research, *Vietnam: U.S. Image Gets a Boost*, Opinion Analysis, Washington, DC, September 9, 2008.

storage sites and to support health programs in communities near those sites. However, according to various sources, most of these funds have yet to be spent as of December 2008. The clean-up of the Da Nang airbase is a joint operation involving the Vietnamese Ministry of Defense, the U.S. Environmental Protection Agency (EPA), and a group called the U.S.-Vietnam Dialogue Group on Agent Orange/Dioxin (Dialogue Group).<sup>25</sup>

On May 15, 2008, the House Subcommittee on Asia, the Pacific, and the Global Environment held a hearing on the Agent Orange issue entitled, “Our Forgotten Responsibility.”

## **Vietnam War Resettlement Programs**

In November 2005, the United States and Vietnam announced the reopening of certain categories of the Orderly Departure Program (ODP), under which over 550,000 Vietnamese were resettled in the United States between 1979 and 1999. Also during this time, another 300,000 Vietnamese came to the United States through other programs. The latest reopening is limited to those who were unable to apply or who were unable to complete the application process before the ODP closed in 1994. The omnibus Consolidated Appropriations Act, 2008 (H.R. 2764), which President Bush signed into law on December 26, 2007, extended the application closing date from the end of 2007 to the end of 2009.

## **POW/MIA Issues<sup>26</sup>**

Since the 1990s, the annual State Department appropriations act has included language prohibiting the use of funds to expand the United States diplomatic presence in Vietnam beyond the level in effect July 11, 1995 (when the two countries opened embassies in the other’s capitol), unless the President makes a certification that several conditions have been met regarding Vietnam’s cooperation with the United States on POW/MIA issues. That certification has been issued every year since the requirement was put in place, though President Bush listed specific steps for how cooperation could be improved.

Officially, over 2,000 Americans who served in Indochina during the Vietnam War era are still unaccounted for.<sup>27</sup> Hundreds of thousands of Vietnamese remain missing. From 1975 through the late 1990s, obtaining a full accounting of the U.S. POW/MIA cases was one of the dominant issues in bilateral relations. Beginning in the early 1990s, cooperation between the two sides increased. By 1998, a substantial permanent U.S. staff in Vietnam was deeply involved in frequent searches of aircraft crash sites and discussions with local Vietnamese witnesses throughout the country. The Vietnamese authorities also have allowed U.S. analysts access to numerous POW/MIA-related archives and records. The U.S. Defense Department has reciprocated by allowing Vietnamese officials access to U.S. records and maps to assist their search for Vietnamese MIAs. The increased efforts have led to substantial understanding about the fate of several hundred U.S. POW/MIA cases, though the United States continues to press

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<sup>25</sup> The Dialogue Group includes representatives from the American Academy for the Advancement of Science, the Aspen Institute, the Ford Foundation, Ngoc Tam Hospital Corporation, Vietnam National University, and the World Committee on Disability - as well as the Vietnamese government. There are no current U.S. government officials in the Dialogue Group.

<sup>26</sup> For more on the POW/MIA issue, see CRS Report RL33452, *POWs and MIAs: Status and Accounting Issues*, by Charles A. Henning.

<sup>27</sup> Official U.S. policy does not remove a name from the rolls of those unaccounted for unless remains are identified.

Vietnam to provide more cooperation in specific areas. During Secretary of Defense Rumsfeld's June 2006 trip to Vietnam, the two countries discussed expanding their cooperation on recovering remains, including the possibility of using more advanced technology to locate, recover, and identify remains located under water.<sup>28</sup>

In February 2009, H.Res. 111 (King, R-NY) was introduced. It would establish a Select Committee on POW and MIA Affairs to conduct a full investigation of all unresolved matters relating to any United States personnel unaccounted for from the Vietnam War and several other conflicts. In the 110<sup>th</sup> Congress, on July 10, 2008, the House Armed Service Subcommittee on Military Personnel held a hearing on oversight and status of POW/MIA activities. Additionally, in May 2008, the House passed H.Res. 986 (roll no. 366), stating that the House "will not forget" and "will continue to press for a full accounting of" U.S. military and civilian personnel who remain unaccounted for from the Vietnam conflict.

## Conditions in Vietnam

For the first decade after reunification in 1975, Vietnamese leaders placed a high priority on ideological purity and rigid government controls. By the mid-1980s, disastrous economic conditions and diplomatic isolation led the country to adopt a more pragmatic line, enshrined in the *doi moi* (renovation) economic reforms of 1986. Under *doi moi*, the government gave farmers greater control over what they produce, abandoned many aspects of central state planning, cut subsidies to state enterprises, reformed the price system, and opened the country to foreign direct investment (FDI). After stalling somewhat in the late 1990s, economic reforms were accelerated in the early 2000s, as Vietnam made sweeping changes that were necessary to enter the WTO. Politically and socially, the country became much less repressive, even tolerating some expressions of dissent in certain areas that had been considered sensitive.

In 2008, there were some signs that the consensus around pursuing an open market liberalization strategy had begun to fray, as more conservative-minded forces began to push against reformist elements. Vietnam's economic troubles in 2008 and 2009 may be contributing to this possible shift in policy momentum.

## Economic Developments

### Vietnam's Economic Troubles of 2007-2009

Since late 2007, Vietnam's economy has been buffeted by economic difficulties that have increased social strife and raised concerns about the country's economic stability. In 2007 and the first half of 2008, the country experienced soaring inflation and acute, downward pressure on the country's currency, the dong. The problems caused by inflation were particularly onerous, as the prices of some food items rose by over 50%, leading workers in a number of factories to go on strike demanding higher wages. Although the increase in the inflation rate has halted and perhaps reversed, the year-on-year rise in prices was still over 20% as of late 2008. Some economists have said Vietnam's still-developing institutional and financial infrastructure has contributed to or even

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<sup>28</sup> Office of the Assistant Secretary of Defense (Public Affairs), "Press Availability with Secretary Rumsfeld in Vietnam," June 5, 2006.

caused many of the problems. Vietnam's growing trade and budget deficits continue to cause concern, including among credit agencies, which in 2008 downgraded the outlook on Vietnam's sovereign rating from stable to negative.

Although restrictions on international financial transactions have limited Vietnam's direct exposure to the global financial and credit crises, the secondary effects have created new pressures on Vietnam, which is heavily dependent on trade and foreign direct investment inflows. Some selected figures illustrate Vietnam's vulnerability to the global slowdown and collapse in commodity prices: exports are equivalent to 80% of GDP; about 60% of Vietnamese exports go to the United States, the European Union, and Japan; and oil revenue accounts for 30% of the government's revenue.<sup>29</sup>

For 2008, GDP growth is expected to have been just over 6%. Many forecasters expect growth to be even lower in 2009, perhaps in the 4%-6% level. Nominal GDP growth of 7% is a key threshold in the minds of many Vietnamese policymakers for creating the jobs necessary for the VCP and the government to maintain social stability. To spur economic growth, the Vietnamese government took a number of steps in the fall and winter of 2008, including announcing a \$6 billion stimulus package, lowering some corporate tax rates, cutting interest rates, and allowing the *dong* to depreciate against the U.S. dollar.

## Background

For most of the past twenty years since the *doi moi* reforms were launched, Vietnam has been one of the world's fastest-growing countries, generally averaging around 7%-8% annual gross domestic product (GDP) growth until the economy began to slow in 2008. Agricultural production has soared, transforming Vietnam from a net food importer into the world's second-largest exporter of rice and the second-largest producer of coffee. The move away from a command economy also helped reduce poverty levels from 58% of the population in 1992 to less than 30% in 2002, and the government has set a goal of becoming a middle-income country by 2020. A substantial portion of the country's growth was driven by foreign investment, much of which the government channeled into the country's state-owned sector.

Economic growth and the reform movement, however, have not always advanced smoothly. In the mid-1990s, the momentum behind continued economic reforms stalled, as disagreement between reformers and conservatives paralyzed economic decision-making. The economy slowed markedly after the 1997 Asian financial crisis, as real GDP growth fell to less than 5% in 1999. The decision in 2000 to sign the BTA with the United States appears to have broken the policymaking logjam by fashioning a new reformist consensus that was effectively endorsed by leadership changes in the 2001, during the VCP's Ninth Party Congress. After signing the BTA, the government enacted a series of measures, including passing a new Enterprise Law, passing a constitutional amendment giving legal status to the private sector, reducing red tape, and creating unprecedented transparency rules requiring the publication of many types of new rules and regulations before they are implemented. Adhering to the BTA's implementation deadlines and achieving the government's goal of joining the WTO have helped galvanize the Vietnamese bureaucracy toward implementing many of these steps. Demographic pressure is a major impetus for the renewed emphasis on economic reforms; with more than half of the population under the

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<sup>29</sup> Economist Intelligence Unit, *Vietnam Country Report*, May 2008.

age of 25, Vietnamese leaders must find a way to provide jobs for an estimated 1 million new entrants to the workforce annually.

Rapid growth has transformed Vietnam's economy, which has come to be loosely divided into three sectors: the state-owned, the foreign-invested, and the privately owned, which make up roughly 50%, 30%, and 20% of industrial output, respectively. For much of the 1990s, Vietnam's foreign-invested enterprises (FIEs) were among the country's most dynamic. Since the 1997 Asian financial crisis, the private sector has also made impressive gains, to the point where domestically-owned private firms employ around a quarter of the workforce.

Despite the impressive macroeconomic advances, Vietnam remains a poor country; the World Bank in 2005 estimated that about one-third of Vietnamese children under five years of age suffered from malnutrition.<sup>30</sup> Per capita GDP in 2006 was just over \$3,000 when measured on a purchasing power parity basis. Economists point to Vietnam's failure to tackle its remaining structural economic problems—including unprofitable state-owned enterprises (SOEs), a weak banking sector, massive red tape, and bureaucratic corruption—as major impediments to continued growth. Some economists have criticized the government's latest five year development plan, issued in 2005, that focuses on the development of heavy industries such as electricity, energy, steel, and mining. The previous plan emphasized lighter industries such as foodstuffs, textiles, and electronics. According to some sources, many if not most of Vietnam's SOEs are functionally bankrupt, and require significant government subsidies and assistance to continue operating. Although more than 2,500 SOEs officially have been partially privatized since 1990 under the government's "equitization" program, most of these are small and medium-sized firms, and the government still owns substantial stakes in them. Other SOE reform measures are being discussed.

## Political Trends

### 2008-09: Shifting Political Winds in Hanoi?

Over the past several months, some Vietnam watchers have seen signs that Prime Minister Dung and other reform-minded leaders may be losing ground in the ongoing battles they reputedly have with more conservative minded officials.<sup>31</sup> The reformers are generally thought to have been ascendant since 2000, when a prolonged logjam over the future of economic reform was broken in favor of a new consensus to deepen Vietnam's integration with the global economy and to push through a new series of market-oriented economic reforms. Additionally, the ascendancy of the reformers has coincided with Hanoi's moves to upgrade relations with the United States, its increased willingness to discuss human rights disagreements, its loosening of restrictions on the Vietnamese press, and its more aggressive drive to root out corruption, which the Vietnamese Communist Party (VCP) sees as one of the greatest threats to its legitimacy.

Among the indicators that the conservatives may be pushing back: the 2008 arrest and sentencing of *Thanh Nien* journalist Nguyen Viet Chien for "abusing" his position by reporting on corruption at high levels in the government; the government-instigated firing of a number of newspaper

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<sup>30</sup> World Bank, "Vietnam at a Glance," September 12, 2005.

<sup>31</sup> See, for instance, Carlyle Thayer, "Hanoi Party Tricks," *The Wall Street Journal Asia*, June 19, 2008; Economist Intelligence Unit (EIU), *Vietnam Country Report*, October 2008.

editors, most prominently the December 2008 firing of the editors of *Thanh Nien* and *Tuoi Tre*, two newspapers that have aggressively investigated corruption cases; a decision by the 160-person VCP Central Committee in May 2008 to give greater authority over the economy to the 14-member Politburo (presumably diminishing the prime minister's role); and an escalating land dispute between the Catholic archdiocese of Hanoi and the Hanoi People's Committee (Hanoi's communist party organ), in which the Hanoi authorities have broken up sit-ins by Catholics protesting the city's plans to redevelop land that the church was forced to turn over to the government decades ago.<sup>32</sup> Much Western speculation has pitted supporters of growth-oriented reforms against conservative forces who place a higher priority on social and political stability.

## Background

Vietnam's experiments with political reform have lagged behind its economic changes. A new constitution promulgated in 1992, for instance, reaffirmed the central role of the Vietnamese Communist Party (VCP) in politics and society, and Vietnam remains a one-party state. In practice, the VCP sets the general direction for policy while the details of implementation generally are left to the four lesser pillars of the Vietnamese polity: the state bureaucracy, the legislature (the National Assembly), the Vietnamese People's Army (VPA), and the officially sanctioned associations and organizations that exist under the Vietnamese Fatherland Front umbrella. The Party's major decision-making bodies are the Central Committee, which has 150 members, and the Politburo, which in recent years has had 15 members. Membership on the Politburo generally is decided based upon maintaining a rough geographic (north, south, and central) and factional (conservatives and reformers) balance. The three top leadership posts are, in order of influence, the VCP General Secretary, followed by the Prime Minister, and the President. Since the death in 1986 of Vietnam's last "strong man," Le Duan, decision-making on major policy issues typically has been arrived at through consensus within the Politburo, a practice that often leads to protracted delays on contentious issues.

## The Tenth Party Congress

In the spring of 2006, Vietnam's ruling Communist Party held its 10<sup>th</sup> Party Congress. These events, held every five years, are often occasions for major leadership realignments and set the direction for Vietnam's economic, diplomatic, and social policies. At the 9<sup>th</sup> Party Congress in 2001, for instance, the VCP endorsed the acceleration of economic reforms that apparently had been stalled by policymaking paralysis. The former VCP general secretary, an ideological conservative, was ousted in favor of the current secretary, **Nong Duc Manh**, who generally is considered a more pragmatic figure. Significantly, Manh's selection reportedly was made possible when the Party's Central Committee rejected the Politburo's decision to endorse Manh's predecessor, an unprecedented move. Manh is an ethnic minority, not an ethnic Kinh (Viet). Many consider his authority to be somewhat limited.

The 10<sup>th</sup> Party Congress reportedly resulted in few if any major changes to current policy direction of the country—an indication that the economic reformers remained in the ascendency—with the ultimate goal remaining creating a "socialist-oriented market economy." During his opening address, Manh outlined the party's five-year development strategy, including

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<sup>32</sup> In the 110<sup>th</sup> Congress, S. 3678, the Vietnam Human Rights Act, would have established the return of such property as a condition for expanding some forms of U.S. non-humanitarian assistance to Vietnam.

accelerating the doi moi reforms, further integrating Vietnam into the world economy, and laying the foundations for becoming an industrialized country by 2020. The Congress also outlined specific targets, such as maintaining average annual GDP growth of 7.5-8%, creating 8 million jobs, and reducing urban unemployment to below 5%.<sup>33</sup>

There were some major personnel changes. As expected, the sitting Prime Minister (Phan Van Khai) and President (Tran Duc Luong) resigned their Politburo positions, effectively ending their official political careers. Both had served two terms. Khai was succeeded by **Nguyen Tan Dung**, a southerner and widely considered to be an economic reformer. During the 10<sup>th</sup> Party Congress, he was elevated to the third-highest post in the Politburo. Luong's successor as President was another southerner, **Nguyen Minh Triet**, formerly the party secretary in Ho Chi Minh City. Triet also is widely considered an economic reformer and is known for fighting corruption and criminal gangs in Ho Chi Minh City.

Vietnam's leadership is trying to confront the problem of how to reverse the Communist Party's declining legitimacy. Attracting new recruits into the Party has become increasingly difficult, particularly among young Vietnamese, though there are some signs this may be changing. A key issue for the VCP leadership is combating official corruption, which was a major topic during the Party Congress. Vietnam regularly is ranked near the bottom of surveys of foreign executives on corruption in various countries.

## The National Assembly

Over the past 10 years, Vietnam's legislative organ, the National Assembly, has slowly and subtly increased its influence to the point where it is no longer a rubber stamp. Although more than 80% of parliamentarians are VCP members and the VCP carefully screens all candidates before elections are held, in recent years the Assembly has vetoed Cabinet appointments, forced the government to revise major commercial legislation, and successfully demanded an increase in its powers. These include the right to review each line of the government's budget, the right to hold no-confidence votes against the government, and the right to dismiss the president and prime minister (though not the VCP general secretary).

## Sino-Vietnam Relations

Since the late 1990s, when China began espousing its "new security concept" of cooperation with its neighbors, improvements in Sino-Vietnamese relations have accelerated, most notably with the signings of a land border treaty in 1999 and a sea border treaty for the Gulf of Tonkin in 2000. For Vietnamese leaders, this process has been fraught with ambivalence. On the one hand, maintaining stable, friendly relations with its northern neighbor is critical for Vietnam's economic development, and Hanoi does not undertake large-scale diplomatic moves without first calculating Beijing's likely reaction. China's ruling communist party is an ideological bedfellow, as well as a role model for a country that seeks to marketize its economy without threatening the communist party's dominance. China also is Vietnam's largest trading partner.

On the other hand, many Vietnamese are wary of China's increased influence in Southeast Asia. Beijing's outreach to Cambodia and Laos in recent years has rekindled internal battles between

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<sup>33</sup>"Party Faces the Future," Economist Intelligence Unit - Business Asia, May 1, 2006.

pro-Hanoi and pro-Beijing camps in both countries, and has spurred counter-moves by Hanoi. Vietnam and China still have overlapping claims to the Spratly Island chain in the South China Sea, differences that led to military clashes in the late 1980s. In 2002, ASEAN and China signed a Declaration on the Conduct of Parties in the South China Sea, a non-binding agreement to resolve disputes diplomatically, exercise restraint, and respect the freedom of navigation and overflight. Significantly, Vietnam did not succeed in its efforts to have the agreement specifically include the Paracel Islands, claimed by both Vietnam and China. Instead, the declaration is vague on its geographic scope. Like other countries in the dispute, Vietnam has continued to expand its presence in the island chain. China also represents an economic rival, as both countries compete for foreign direct investment and for markets in many of the same low-cost manufacturing products. Vietnamese leaders periodically express concern about Vietnam's rising trade deficit with China.

Events over the last two years reflect the conflicting dynamics in Sino-Vietnamese relations. In late May 2008, VCP General Secretary Manh made a four-day visit to China. In October, Prime Minister Dung made a week-long trip. The summitry led to agreements to set up a hotline and to complete the demarcation of their land border, a task that was accomplished in late December 2008. Hanoi and Beijing continue to deal with resurfacing disputes over the Paracel and Spratly Islands. Most notably, in December 2007, the Vietnamese government allowed anti-Chinese demonstrations outside the Chinese embassy in Hanoi and consulate in Ho Chi Minh City. The protestors were angered by reports that Beijing had created a new municipality in Hainan Province that would have jurisdiction over three islets claimed by Vietnam. China also has told international oil companies – including ExxonMobil – they will be excluded from the Chinese market if they fulfill contracts to participate in Vietnamese exploration projects in or near the disputed waters. During Dung's visit to China in October, the two sides agreed to try to resolve their maritime disputes.

## **Selected Legislation in the 111<sup>th</sup> Congress**

**H.Res. 20 (Royce).** Calls on the State Department to list the Socialist Republic of Vietnam as a “Country of Particular Concern” with respect to religious freedom. Introduced January 6, 2009. Referred to House Foreign Affairs Committee.

**H.Res. 111 (King).** Establishes a Select Committee on POW and MIA Affairs to conduct a full investigation of all unresolved matters relating to any United States personnel unaccounted for from the Vietnam War and several other conflicts. Introduced February 3, 2009. Referred to House Rules Committee.

**Figure 1. Map of Vietnam**



**Source:** Map Resources. Adapted by CRS.

## **Appendix A. Versions of the Vietnam Human Rights Act, 110<sup>th</sup> Congress**

In the 110<sup>th</sup> Congress, two versions of a Vietnam Human Rights Act were introduced.

### **H.R. 3096**

In the 110<sup>th</sup> Congress, H.R. 3096 in effect established a two-part test for determining whether U.S. assistance programs would be covered by the cap: (1) Does the program constitute aid “provided to the Vietnamese government,” as opposed to the private sector and non-governmental organizations? (2) Does the program constitute non-humanitarian aid? The act defined non-humanitarian assistance as sales or financing under the Arms Export Control Act and any assistance under the Foreign Assistance Act of 1961. Exceptions were explicitly made for disaster relief, food aid, refugee assistance, and HIV-AIDS assistance. Under these conditions, the value of U.S. aid programs that would have been frozen had H.R. 3096 been enacted would have totaled less than \$20 million, and probably less than \$10 million. Many of the existing U.S. military-to-military programs with Vietnam, such as the IMET program, would have been frozen at FY2007 levels.

At a July 31, 2007 markup session, the House Foreign Affairs Committee reported favorably H.R. 3096 to the full House by voice vote. The action was taken after the bill was amended. As introduced, the bill would have prohibited non-humanitarian assistance to the Vietnamese government unless human rights policy changes were made. The amended version, which the House passed on September 18, 2007 (414-3, roll no. 877), softened this provision to a freeze. The bill did not see action in the Senate.

### **S. 3678**

In October 2008, an alternative Vietnam Human Rights Act (S. 3678) was submitted in the Senate. It would have prohibited increases in many forms of U.S. non-humanitarian assistance to Vietnam unless (1) such increases are matched by additional funding for human rights programming, or (2) Vietnam’s human rights conditions are certified as improving. Like H.R. 3096, S. 3678 would have granted the President the authority to waive this prohibition, would authorize the increase of RFA anti-jamming funding programming, and would have required the submission of a stand-alone human rights report for Vietnam. Unlike the House bill, the Senate bill would have prohibited Vietnam’s entry into the GSP program unless Vietnam’s labor rights regime is certified as making improvements.

## Appendix A. Selected Legislation in the 110<sup>th</sup> Congress

**H.Res. 243 (Chris Smith).** Calls on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Nguyen Van Ly and other political prisoners. Introduced March 14, 2007; passed in the House May 2, 2007 (404-0, roll call no. 286).

**H.Res. 447 (Blumenauer).** Condemns the recent convictions and sentencing of Vietnamese pro-democracy activists. Introduced May 24, 2007; referred to House Foreign Affairs Committee.

**H.Res. 506 (Lofgren).** Condemns ongoing human rights abuses in Vietnam and calls for the United States to remove permanent normal trade relations status with Vietnam unless all political and religious prisoners are released and significant and immediate human rights reforms are made by Vietnam. Introduced June 20, 2007; referred to Committees on Foreign Affairs and Ways and Means.

**H.Res. 665 (Tom Davis).** Endorses reforms for freedom and democracy in Vietnam. Introduced September 19, 2007; referred to House Committee on Foreign Affairs.

**H.Res. 986 (Boehner).** States that the House “will not forget” and “will continue to press for a full accounting of” the over 1,700 U.S. military and civilian personnel who remain unaccounted for from the Vietnam conflict. Introduced February 14, 2008; passed by the House, May 22, 2008 (394 - 0, roll no. 366).

**H.Res. 1048 (Lofgren).** Condemns the detention of Dr. Nguyen Quoc Quan, a U.S. citizen, by the Vietnamese government, and expresses the sense of the House that the United States should remove permanent normal trade relations status with Vietnam unless Dr. Nguyen is released. Introduced March 13, 2008; referred to the Committees on Foreign Affairs and Ways and Means.

**H.Res. 1089 (Loretta Sanchez).** Calls on the government of Vietnam to release from prison and end the harassment of people who signed the April 2006 Manifesto on Freedom and Democracy for Vietnam. Directs the Secretary of State to establish a Countries of Particular Concern list to condemn countries like Vietnam that engage in “particularly severe violations” of human rights. Introduced April 8, 2008; referred to House Committee on Foreign Affairs.

**H.R. 275 (Christopher Smith).** The Global Online Freedom Act of 2007. Directs the President to annually designate a list of Internet-restricting countries, including Vietnam. Places restrictions and reporting requirements on certain U.S. business activities in designee countries. Introduced January 5, 2007; reported as amended by the Committee on Foreign Affairs, December 10, 2007; on February 2008, discharged by House Committees on Energy and Commerce, and on Judiciary; placed on the Union Calendar, Calendar No. 320.

**H.R. 571 (Tancredo).** Requires additional tariffs be imposed on products of any nonmarket economy country, including Vietnam, until the President certifies to the Congress that the country is a market economy country. Introduced January 18, 2007; referred to House Ways and Means Committee.

**H.R. 2206 (Obey).** The U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007. Appropriates \$3 million for assistance to Vietnam for

environmental remediation of dioxin storage sites and to support health programs in communities near those sites. Introduced May 8, 2007; passed by House May 10, 2007 (221 - 205, Roll no. 333); passed by Senate May 17, 2007 by voice vote; signed by President May 25, 2007; became P.L. 110-28.

**H.R. 2764 (Lowey).** The Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008. Senate version would appropriate \$10.7 million in economic support funds (ESF)—nearly double the Administration request—to support Vietnam's economic and judicial reform efforts. In contrast, the House Committee on Appropriations recommended \$5 million in ESF, \$0.7 less than the Administration requests. Both versions of the bill encourage funding programs in the Central Highlands region. Introduced June 18, 2007; passed by the House June 22, 2007 (241-178 (Roll no. 542)); Senate version passed by the Senate September 6, 2007 (Record Vote Number: 325).

**H.R. 3096 (Chris Smith).** The Vietnam Human Rights Act of 2007. Would freeze non-humanitarian aid to Vietnam at 2007 levels unless the Vietnamese government were to make certain human rights policy changes. Authorizes funds for organizations and individuals that promote human rights in Vietnam, and for overcoming the jamming of Radio Free Asia by the Vietnamese government. Introduced July 19, 2007; passed by the House September 18, 2007 (414-3 (Roll no. 877)); referred to Senate Committee on Foreign Relations.

**H.R. 4223 (Fortenberry).** Establishes a Congressional-Executive Commission on the Socialist Republic of Vietnam to monitor and report annually on, among other items, Vietnam's human rights conditions and rule of law developments. Introduced November 15, 2007; referred to House Committees on Foreign Affairs and House Committee on Rules.

**H.R. 6124 (Collin Peterson).** The Food, Conservation, and Energy Act of 2008. Introduced May 22, 2008; became Public Law No: 110-246 June 18, 2008. Section 11016 amends the Federal Meat Inspection Act to include catfish as a species subject to inspection when used for human consumption. Directs the Secretary, with respect to a meat food product derived from catfish, to take into account the conditions under which the catfish is raised and transported to a processing establishment.

**H.R. 6535 (Delahunt) and S. 3097 (Kerry).** Vietnam Education Foundation Amendments Act of 2008. Among other items, establishes the Vietnam Education Foundation within the State Department's Bureau of Educational and Cultural Affairs and establishes a new "American Research College" in Vietnam. H.R. 6535 introduced July 17, 2008; referred to House Committee on Foreign Affairs. S. 3097 introduced June 6, 2008; reportedly favorably without amendment September 12, 2008 (S.Rept. 110-458).

**S. 3678 (Boxer).** Vietnam Human Rights Act of 2008. Prohibits increases in many forms of U.S. non-humanitarian assistance to Vietnam unless (a) such increases are matched by additional funding for human rights programming, (b) Vietnam's human rights conditions are certified as improving, or (c) the President issues a waiver. Prohibits Vietnam's entry into the U.S. Generalized System of Preferences (GSP) program unless Vietnam's labor rights regime is certified as making improvements in certain areas. Introduced October 1, 2008; referred to Senate Foreign Relations Committee.

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